



COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012-2713

July 21, 2003

LLOYD W. PELLMAN

County Counsel

TDD

(213) 633-0901

TELEPHONE

TELECOPIER

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **County of Los Angeles v. Joanne Smith**
California Court of Appeal Nos. B 124218 and B 149744

Joanne Smith v. County of Los Angeles
Los Angeles Superior Court Case No. BY 027 688

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$275,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Child Support Services Department.

Enclosed is the settlement request and a summary of the facts of the case.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO/fsl

Enclosure

MEMORANDUM

July 1, 2003

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: PAUL I. YOSHINAGA
Principal Deputy County Counsel
Probate Division

RE: County of Los Angeles v. Joanne Smith
California Court of Appeal Nos. B 124218 and B 149744;

Joanne Smith v. County of Los Angeles
Los Angeles Superior Court Case No. BY 027 688

DATE OF
INCIDENT: July 2, 1997

AUTHORITY
REQUESTED: \$275,000

COUNTY
DEPARTMENT: Child Support Services Department

CLAIMS BOARD ACTION:

<input type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	<input type="checkbox"/> Recommend to Board of Supervisors for Approval
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_____, Chief Administrative Office
ROCKY ARMFIELD

_____, County Counsel
LLOYD W. PELLMAN

_____, Auditor-Controller
MARIA M. OMS

on _____, 2003

SUMMARY

This is a recommendation to settle for \$275,000, the attorney's fees lawsuit filed by Joanne Smith against the County.

LEGAL PRINCIPLES

Attorney's fees can be awarded to a private party under state law when a successful party's action has resulted in the enforcement of an important right affecting the public interest in certain circumstances.

SUMMARY OF FACTS

This case arose out of the District Attorney Child Support Division's ("DA") effort to recover costs of care provided to a ward of the juvenile court.

On July 2, 1997 the DA filed a complaint against Ms. Smith, the mother of the ward, seeking reimbursement for payment of funds expended for her child's placement into foster care. At the time he was placed, he was also under the umbrella of an "individualized education plan" pursuant to the Individuals with Disabilities Education Act ("IDEA"), which Smith argued exempted her from repayment.

On June 5, 1998, the trial court found Smith not liable for prospective repayment from the date of trial because he was entitled under the IDEA to a free education. The DA appealed that ruling. The Appellate Court affirmed in a published opinion the lower court's ruling that found Smith not liable for the costs of care.

Smith thereafter brought a motion for attorney's fees under the private attorney general doctrine, initially seeking in excess of \$330,000. The Office of the County Counsel was then asked to represent the DA at the attorney's fees trial. The County prevailed on February 27, 2001 with the trial court disallowing the entire request for fees.

Smith filed a second appeal on the denial of attorney's fees issue, and on July 10, 2002 the Appellate Court held the trial court erred in determining the case did not warrant an award of attorney's fees. The matter was remanded to the trial court to determine the amount of fees. The remand trial is pending.

DAMAGES

The potential liability in this matter on attorney's fees is substantial, considering there were two trials, two appeals, and the upcoming remand trial. It is possible the fees award could now be in excess of \$500,000.

STATUS OF CASE

On June 20, 2003, voluntary mediation was held between the parties after initial settlement discussions had commenced. At mediation, the parties reached the agreed sum of \$275,000 as reasonable settlement of the case, pending approval by the Claims Board and the Board of Supervisors.

EVALUATION

The mediation reached a successful agreement after substantial negotiation, resulting in a settlement that avoids certain future additional fees and costs as well as avoiding the possibility of the trial court awarding fees well in excess of the agreed amount. The Department participated actively in the settlement negotiations and approves of the settled amount. The mediation was also attended by an expert consultant hired by the Department who concurred as to the reasonableness of the settlement amount.